



SEN 09/620,679

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Rodney Ruesch
Serial No.: 09620,679
Filed: July 20, 2000
Title: GTL + DRIVER

Examiner: Don Le
Group Art Unit: 2819
Docket: 499.075US1

REPLY BRIEF UNDER 37 CFR 1.193(b)

Box AF
Assistant Commissioner for Patents
Washington, D.C. 20231

This Brief is presented in response to the Examiner's Answer dated November 26, 2002, in the above-identified appeal. Appellant respectfully requests acknowledgment of receipt, and entry, of this Reply in the above-identified application for review by the Board of Patent Appeals and Interferences.

This Reply Brief is filed in triplicate. The Examiner is hereby authorized to charge any necessary fees to Deposit Account No. 19-0743.

REPLY

The Examiner's Answer raised new grounds for rejection which extend beyond those in the final Office Action dated March 14, 2002. Appellant respectfully traverses these new grounds of rejection.

As to claims 8 and 10, Appellant submits that the Examiner's Answer, on page 8, includes a new argument based on M.P.E.P. § 2112.01 and inherency. The new arguments were not previously made of record and thus Appellant submits that entry of such arguments requires re-opening of prosecution.

Notwithstanding the foregoing, Appellant submits that claims 8 and 10 relate to a method of communicating data not taught or suggested by Esch. The Examiner presents a new assertion in the Answer that the edge rate is controlled by turning on particular transistors 211-229 in Fig. 5 of Esch. Appellant respectfully submits that support for that assertion is not found in the cited document and has not previously been made of record.

As to claim 9, Appellant submits that the Examiner's Answer, on page 9 includes new grounds of rejection not previously presented asserting that "the output signal at pad 241 in

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figure 4 is maintained at a constant edge rate by turning particular transistors 211-229 for variation of PVT. Otherwise, the output signal will be distorted due to environmental conditions.” Among other things, Appellant has not previously had an opportunity to address “distortion due to environmental conditions.”

As to claim 16, Appellant submits that the Examiner’s Answer, on page 10, includes new grounds of rejection not previously presented asserting that “when the enable signal is high logic level, the output of 230 is low logic level and when the enable signal is low logic level the output of 230 is high logic level. Therefore the switchable element is a programmable inverter.” Appellant maintains that such grounds of rejection were not encompassed in the statements appearing in the office action. The office action asserted, *inter alia*, that “actuating a switchable resistance element comprises actuating a programmable inverter (230 configured as inverter). Appellant has not previously had an opportunity to present arguments as to the statements appearing in the Answer. For example, the Answer appears to assert that 230 is an inverter whereas the office action asserted that 230 could be configured as an inverter.

For these and other reasons, it appears that the Answer includes new grounds of rejection which are properly reconciled in the course of prosecution rather than during appeal.

In addition, Appellant respectfully traverses assertions presented in the Answer. At section (B) of the Answer, the Examiner asserted that “Appellant argues that the prior art (Esch) does not teach *any* steps of the claimed method.” *Page 8, emphasis added.* Appellant respectfully submits that this is a mischaracterization of the argument presented in the Appeal Brief. On pages 7 and 8 of the Appeal Brief, Appellant submits cogent reasoning concerning selected elements of claims 8 and 10.

Furthermore, the Examiner’s Answer included duplicate sections entitled “Related Appeals and Interferences” with one section asserting that an appropriate statement was included in the Appellant’s Appeal Brief and the second section asserting that the Appellant’s Appeal Brief did not contain an appropriate statement. As to the second section, Appellant respectfully traverses and draws attention to the section entitled “Related Appeals and Interferences” on page 3 of the Appeal Brief.

CONCLUSION

For these and other reasons, Appellant submits that the rejection of the claims was improper, the Examiner's Answer includes new grounds of rejections and reversal by the Board is respectfully requested.

Respectfully submitted,

RODNEY RUESCH

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(612) 373-6911

Date January 27, 2003

By D. W. Black

David W. Black
Reg. No. 42,331

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner of Patents, Washington, D.C. 20231, on this 27th day of January, 2003.

Name

Dawn M. Pukle

Signature

Dawn M. Pukle